

Supreme Court, U. S.  
FILED

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WILLIAM KODAK, JR., CLERK

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1975

NO. 75-1619

DELBERT ALLEN GIBSON and  
A. L. REEVES, JR., *Petitioners*

v.

THE STATE OF TEXAS, *Respondent*

ON PETITION FOR A WRIT OF CERTIORARI  
TO THE TEXAS COURT OF CRIMINAL APPEALS

PETITIONERS' REPLY BRIEF

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*To The Honorable Judge Of Said Court:*

NOW COMES DELBERT ALLEN GIBSON and  
A. L. REEVES, JR., *Petitioners* herein, by and through  
their attorneys of record and file this their reply brief  
to *Respondent's* Brief in Opposition.

I.

The State of Texas mistakenly contends in its brief  
that *Petitioners* were NOT "guaranteed" probation as a  
plea bargain *quid pro quo* for their pleas of guilty.


The truthful and undisputed facts as presented in the uncontroverted affidavits of the District Attorney Richard Fielder and Hays County Sheriff Bobby Kinser established that Petitioners would not have changed their pleas to "Not Guilty" to "Guilty" if they thought that they would not get probation. SEE Appendix A 31 and A 32 of Petition for Writ of Certiorari.

Everyone in the courtroom at the time Petitioners plead guilty including Judge Terry Jacks knew that a plea bargain had been struck. The reason, and the only reason, that Petitioners responded to Judge Jacks' admonitions in the manner in which they did was because they had been so instructed to by their attorney. Their attorney instructed them to answer in the negative to the questions propounded by Judge Jacks because the requirements of Article 26.13 of the Texas Code of Criminal Procedure leaves no room for forthrightness, but rather it coerces defendants, their lawyers, district attorneys and even judges into judicial hypocrisy.

Petitioners contend that it makes little difference which amended ~~Article~~ 26.13 of the Texas Code of Criminal Procedure was in effect at the time the Court heard their pleas. It is not so much the article itself, but rather the manner in which it was applied to them, and to other defendants, which caused the injustice complained of in their Petition for Writ of Certiorari and which has not been satisfactorily responded to by the State of Texas.

For these reasons stated herein, a Writ of Certiorari should issue to review the judgment and opinion of the Texas Court of Criminal Appeals.

Respectfully submitted this 3rd day of Sept, 1976.

  
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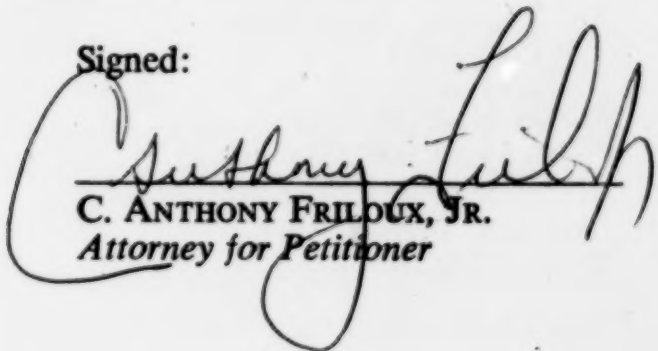
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**CERTIFICATE OF SERVICE**

The undersigned counsel for Petitioners does hereby certify that on this the 3rd day of Sept, 1976, he did deposit in the United States Mail, by Certified Mail, Return Receipt Requested, postage prepaid, addressed to the Attorney General of Texas at the address shown, three (3) true and correct copies of this instrument, entitled "Petitioners' Reply Brief."

Honorable John Hill  
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Signed:



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